IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA.

Cr. Appeal No. 457 of 2000

Date of Decision : 27.9.2007

State of H.P. …Appellant.

Versus:

Parmod Singh …Respondent.

***Coram*:**

The Hon'ble Mr.Justice Sanjay Karol, Judge.

Whether approved for reporting?[1] *No*

For the appellant: Mr. M. A. Khan, Addl. A. G.

For the respondent : Mr. Jagdish Vats, Advocate.

Sanjay Karol, J (Oral).

The present appeal arises out of the judgment dated 27.11.1998 passed by the Sub Divisional Judicial Magistrate, Rajgarh, Distt. Sirmaur, in Criminal Case No. 46/2 of 1997, titled as State v. Parmod Singh, acquitting the accused of the charged offence u/s 279 & 337 of the Indian Penal Code.

As per the case of the prosecution, on 17.6.1997 at about 9.45 p.m. Shri Satish Kumar (PW-1) was crossing the road from a passage in between two vehicles i.e. bus No. HP-14-3573 and one truck Swaraj Mazda, parked behind the bus. The accused without giving any signal or starting the bus reversed

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[1] **Whether reporters of Local Papers may be allowed to see the judgment?**

the bus thereby crushing Satish Kumar. On raising hue and cry, the bus was stopped and the injured was taken out and sent to the hospital for medical treatment. Investigating Officer HC Phool Singh (PW-10) recorded the statement Ext.PW-1/A of Shri Satish Kumar (PW-1) and on the basis of which FIR No. 42/97 dated 18.6.1997 u/s 279 & 338 IPC was registered with Police Station, Rajgarh. Statements of the witnesses were recorded, MLC Ext.PW-3/B and other documents were seized by the Investigating Officer. After completing the investigation, the challan was presented by SHO Sant Ram (PW-6) in the Court for trial.

After compliance of the provisions of Section 207 Cr.PC, the accused was charged for an offence u/s 279 & 337 IPC.

In order to prove its case, the prosecution examined 13 witnesses and the accused examined one witness. Statement of the accused u/s 313 Cr.PC was also recorded.

Considering the evidence on record, the Court below came to the conclusion that the prosecution failed to prove its case beyond reasonable doubt and that the statements of the witnesses were contradictory and not reliable and trustworthy. Further, the eye witnesses who had helped the injured at the site of occurrence, were not associated with the investigation and examined in the Court.

Dr. A. K. Arora (PW-3) has examined the injured and Shri Jeet Ram (PW-4) has proved the X-ray report. As per version of PW-3, if the person was crushed in between two vehicles he ought to have sustained injuries and fractures on whole of the body.

Shri Satish Kumar (PW-1) an injured-complainant, S/Shri Deepak Kumar (PW-2), Prithvi Singh (PW-12) and Kishan Chand (PW-13) are the independent witnesses who were present at the time and place of occurrence. HC Phool Singh (PW-10) is the Investigating Officer. Deposition of all the other witnesses is formal in nature.

As per the version of PW-1, while he was crossing the road in between the two vehicles accused, without any intimation reversed the bus which resulted into his being crushed between the two vehicles. Upon his raising hue and cry, he was helped by S/Shri Rajinder, Bishan Lal and Pardeep Kumar who rushed to the site and took him out between the two vehicles. Importantly, PW-1 has suffered grievous injuries on his hand only and none of the said persons mentioned by PW-1 have been examined by the prosecution. PW-3 has deposed that if a person was to be crushed between the two vehicles, he would receive injuries on his entire body. These facts raise suspicion with regard to the case of the prosecution as set out in the Court.

Not only that as per PW-13 he did not witness the occurrence of the incident and reached late. Shri Prithvi Singh (PW-12) has not supported the case of the prosecution at all. According to him, there was a taxi parked behind the bus and the truck in fact was parked in the opposite direction. According to him, he has also not witnessed the incident and has admitted that the bus did not collide with his vehicle. Thus, none of the witnesses have supported PW-1 and statement of PW-1 stands falsified by PW-3.

Considering the entire material on record, I am of the view that the Court below has correctly appreciated the statements of the witnesses as also the material on record to arrive at its conclusion, acquitting the accused. In my view, the prosecution has not been able to prove its case beyond reasonable doubt. No case for interference is made out and the present appeal stands dismissed.

(Sanjay Karol), J.

September 27, 2007
(rana)